

Ex-Qwest president says he told Nacchio things didn't add up

In a 2000 memo, he said Qwest's financial targets were a 'huge stretch'

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Former Qwest president Afshin Mohebbi provided the government on Monday with perhaps its strongest testimony yet in its criminal insider trading case against former Qwest chief executive Joe Nacchio.

The message from the soft-spoken Mohebbi was loud and clear during a methodical direct examination by lead prosecutor Cliff Stricklin: Mohebbi repeatedly warned Nacchio the company would have a tough time hitting financial targets for 2001.

Unlike concerns raised by other former executives who previously testified during the three-week-old trial, the majority of Mohebbi's warnings were written in memos given to Nacchio, most of which were introduced as evidence in the case.

That allowed jurors to not only hear Mohebbi's recollections but also read exactly what he told Nacchio.

In a late 2000 memo, he wrote that Qwest's financial targets for 2001 were a "huge stretch" and its dependence on one-time network capacity sales to fill revenue shortfalls could be too large to deal with if the company's recurring business didn't take off.

"If we don't crank up recurring growth by April, we got big problems," he wrote in a different memo in December 2000. That growth never happened, Mohebbi testified.

"He was effective in getting the government's story across, mostly because of all the memos that he wrote," said University of Denver law professor Jay Brown, who is working as a legal analyst for *The Denver Post*.

Mohebbi testified that he usually typed out the memos and placed them on Nacchio's chair rather than send them through e-mail because Nacchio wasn't an e-mail type of person. Mohebbi, who began his testimony Thursday, said he would later discuss the memos with Nacchio.

Nacchio faces 42 counts of illegal insider trading connected to his sale of \$100.8 million in Qwest stock from January to May 2001. He has denied wrongdoing. His attorneys have contended that he was upbeat on Qwest during that time.

During cross-examination Monday, lead defense attorney Herbert Stern tried to show the jury that Mohebbi was just as upbeat as Nacchio was in February 2000 about the combined Qwest/US West, which merged in June 2000. But much of that wasn't allowed by U.S. District Judge Edward Nottingham after objections from the prosecution about its relevance to the case.

Stern got Mohebbi to acknowledge that he had met with the government more than a dozen times since 2005, including at least six times this year, in preparation for the trial.

"That's a good indication of the importance of this witness to the government's case," Brown said.

Mohebbi was Nacchio's No. 2 man at Qwest and is the highest-ranking former executive to have testified.

Mohebbi has been granted immunity from criminal prosecution. He testified that he had \$8 million worth of vested stock options in January 2001, but never exercised them.

Nacchio was indicted on insider trading in December 2005. The trial started March 19 in Denver federal court.